

**Notice of Allowability**

Application No.

09/649,128

Applicant(s)

OHTA, SEIYA

Examiner

Art Unit

Nelson D. Hernandez

2612

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to \_\_\_\_.
2. ☒ The allowed claim(s) is/are 1 and 3-36.
3. ☒ The drawings filed on 28 August 2000 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)           |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                               | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date ____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date ____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment                              |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material         | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance  |
|  | 9. <input type="checkbox"/> Other ____.   |

**DETAILED ACTION**

***Response to Amendment***

1. Examiner acknowledges the amendments on the claims received on November 9, 2004.

***Allowable Subject Matter***

2. Claims **1-36** are allowed.
3. The following is a statement of reasons for the indication of allowable subject matter:

Regarding **claims 1, 6, 8, 10 and 12**, the main reason for indication of allowable subject matter is because the prior art fails to teach or reasonably suggest that the ratio of the plurality of color component signals includes a case wherein a ratio of at least one color component signal is zero.

Hashimoto, US Patent 6,249,317 B1 discloses a focus adjustment apparatus (See figs. 12A and 12B) comprising: a color component signal forming circuit (Fig. 12, items 4, 5 and 6) for forming a plurality of color component signals corresponding to predetermined different color components (Fig. 12, items R1, G1 and B1) of object light received through an optical system (Fig. 12: 3); and a focus adjustment signal forming circuit (Microcomputer in fig. 12: 21) for forming a signal for focus adjustment on the basis of a signal formed by changing a ratio of the plurality of color component signals formed by said color component signal forming circuit (Col. 5, lines 3-23; col. 6, lines 49-55; col. 9, lines 22-63; col. 10, lines 7-20; col. 11, line 42 – col. 12, line 6; col. 12, lines 38-61; col. 13, lines 46-54; col. 17, lines 26-41; col. 21, lines 26-54). However,

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Hashimoto fails to teach or reasonably suggest that the ratio of the plurality of color component signals includes a case wherein a ratio of at least one color component signal is zero, that the focus adjusting signal forming circuit changes the ratio of the plurality of color component signals on the basis of chromatic aberration information corresponding to a focal length of the optical system or on the basis of chromatic aberration information corresponding to an opening degree of the aperture of the optical system, or on the basis of chromatic aberration information of an auxiliary optical system used together with the optical system.

4. Claims 1, 6, 8, 10 and 12 are generic and allowable. Accordingly, the restriction requirement as to the encompassed species is hereby withdrawn and claims 4, 5, 7, 9, 13-15, 18-20 and 23-36, directed to different species no longer withdrawn from consideration since all of the claims to this species depend from or otherwise include each of the limitations of an allowed generic claim. However, claims 37-39, directed to a different species remain withdrawn from consideration since they do not all depend upon or otherwise include all the limitations of an allowed generic claim as required by 37 CFR 1.141.

In view of the above noted withdrawal of the restriction requirement as to the linked species, applicant(s) are advised that if any claim(s) depending from or including all the limitations of the allowable generic linking claim(s) be presented in a continuation or divisional application, such claims may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

#### **Contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nelson D. Hernandez whose telephone number is (571) 272-7311. The examiner can normally be reached on 8:30 A.M. to 6:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy R. Garber can be reached on (571) 272-7308. The fax phone


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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nelson D. Hernandez  
Examiner  
Art Unit 2612

NDHH  
March 3, 2005

  
WENDY R. GARBER  
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TECHNOLOGY CENTER 2600